

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – JUNE 24, 2009**

CALL TO ORDER

Mayor/Chairman Tate called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members: Carr, Lee, Librers, Sellers, and Mayor/Chairman Tate

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Mayor Tate stated that he reflected back about 10 years ago, when he attended a meeting in San Jose where a new program was being kicked off and introduced to Santa Clara County – Project Cornerstone. He indicated that Project Cornerstone introduced 40 developmental assets; values and skills that young individuals should be developing to give them the solid grounding that will allow them to succeed later in life. In working with former Mayor Dennis Kennedy, it was felt that the 40 developmental assets were important. He indicated that a poll taken by the youth in Santa Clara County indicated that the youth had several of the development assets. However, the asset that scored the lowest was “the community values its youth.” He and former Mayor Kennedy felt that the City is the community and that they needed to do something about this. Therefore, the Council adopted the 40 developmental assets. One item the Council implemented was the Youth Advisory Committee. The youth who participated in this Committee implemented several programs; including participation in a youth leadership program. He indicated that there are 26 youths between the ages of 13-17 going through the program at this time. He stated that this is a program where youth learn leadership skills, sponsored by the City through the youth committee. He felt that this is an illustration of what the City has done to address “the community values its youth” and shows that Morgan Hill is trying to do its duty in building assets in its youth. He stated that another good example is the event taking place next Saturday at 3 p.m. that underscores “the community values its youth” asset in the opening of the skate park – an outdoor activity for youth along with other activities the City has made available at the Centennial Recreation Center (CRC). He encouraged everyone to come out and enjoy the new skate facility at the CRC. He stated that he has committed to have lunch with senior citizens once a month, on a regular basis, at the Senior Center in order to receive input and to understand their concerns. He indicated that he is always available to meet with citizens.

Council Member Lee stated that she had the opportunity to help at the Splash 2 Dash event held at the Outdoors Sports Center Complex and the Aquatics Center last Saturday. She indicated that this was a fabulous event, and that it was wonderful to see the youth swimming, running, and biking; taking advantage of the event. She encouraged participation in next year's event as it is a fun event.

CITY MANAGER'S REPORT

City Manager Tewes indicated that later in the agenda, staff will be addressing specific budget proposals that the State of California is considering. He stated that the Council adopted the City's budget last week and that staff is waiting to see how the State's budget might adversely impact the City's budget. He said that the State legislature began the process of developing their budget by having their first unsuccessful vote on a budget today. He indicated that the State Controller and others are pointing out that the State of California will run out of cash on July 28. This may result in a greater incentive to pass the State budget in July.

CITY ATTORNEY'S REPORT

City Attorney Wan stated that he did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairman Tate opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Mayor/Chairman Tate announced that he would be recommending the Council continue agenda item 13 this evening at the property owners' requests as their attorney could not be in attendance this evening. However, the Council would accept comments relating to that agenda item. He stated that the Council would consider one item listed on the Special Agenda following actions on the Consent Calendar.

Action: *On a motion by Council/Agency Member Lee and seconded by Mayor Pro Tempore/Vice-chair Sellers, the City Council/Agency Board unanimously (5-0) **Adopted** the Agenda as Printed; Agreeing to Continue Agenda Item 13 and Considering the Special Meeting Agenda Following the Consent Calendar.*

City Council Action

CONSENT CALENDAR:

City Manager Tewes informed the Council that he has been advised that item 2 on the Consent Calendar has a series of recommended actions, and that staff would like to pull the item from the Consent Calendar to present an explanation on one of the action items.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Approved** Consent Calendar items 1 and 3-8 as follows:*

1. **MAY 19, 2009 SPECIAL MUNICIPAL ELECTION - CERTIFIED STATEMENT OF ELECTION RESULTS**

Action(s): **Adopted** Resolution No. 6253, Reciting the Facts of the Special Municipal Election of May 19, 2009; Declaring the Results of Such Other Matters as Provided by Law.

3. **APPROVE AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR DESIGN OF THE DIANA PARK REPLACEMENT WELL AND PUMP STATION**

Action(s): **Authorized** the City Manager to Execute a First Amendment to the Professional Services Agreement with Luhdorff & Scalmanini (LSCE) for Design Services, Including; Preparation of Plans, Specifications and Construction Support for the Diana Park Replacement Well and Pump Station.

4. **FOURTH AMENDMENT TO HOUSEHOLD HAZARDOUS WASTE AGREEMENT FOR 2006-2009**

Action(s): **Authorized** the City Manager to execute the Fourth Amendment to the City's Household Hazardous Waste Agreement with the County.

5. **MONTHLY FINANCIAL AND INVESTMENT REPORTS - CITY**

Action(s): **Accepted** and **Filed** the Report.

6. **EXCEPTION TO LOSS OF BUILDING ALLOTMENT AWARDED TO APPLICATION MC-05-11: EAST THIRD - GLENROCK**

Action(s): **Adopted** Resolution No. 6254, Approving a 24-month Extension of Time for Commencement of Construction.

7. **ADOPT ORDINANCE NO. 1942, NEW SERIES**

Action(s): **Waived** the Reading, and **Adopted** Ordinance No. 1942, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION, DAA-05-09C: DEL MONTE-GIOVANNI.**

8. **ADOPT ORDINANCE NO. 1943, NEW SERIES**

Action(s): **Waived** the Reading, and **Adopted** Ordinance No. 1943, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLE II AND ARTICLE III, THE STANDARDS AND CRITERIA AND MICRO PROJECT COMPETITION PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE.**

2. PUBLIC WORKS MAINTENANCE AGREEMENTS FOR FY 2009-10 AND 2010-11

Deputy Director of Public Works Sruve indicated that this item requests the Council to award six maintenance contracts based on a bidding process. He said that the fourth contract is for traffic signal and street light maintenance. Staff has indicated that the annual cost is \$180,000; however, an attachment to the report provided to the Council talks about ranking and costs in recommending an award where staff lists the cost as \$26,400. This cost is different from the \$180,000 annual cost listed in the staff report. He said that he needs to check with staff to determine how staff came up with the \$180,000 annual cost. He informed the Council that he was on vacation when the report was prepared, and apologized for the discrepancies in the numbers.

City Manager Tewes recommended the Council approve five of the contracts; deferring action on the traffic signal and street light maintenance contract.

Action(s): *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council unanimously (5-0): 1) Approved New Maintenance Agreements for: a) Emergency Pump Maintenance and Repair for Booster Stations, b) Emergency Repairs, Maintenance and Parts for Well Sites, c) Signal and Striping of Streets/Traffic Lines/Legends/School Crossings, d) Tree Pruning, e) Laboratory Service for Potable Water Sampling and Analysis; and 2) Authorized the City Manager to execute the agreements on behalf of the City.*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Vice-chairman Sellers and seconded by Agency Member Lee, the Redevelopment Agency Board unanimously (5-0) Approved Consent Calendar Item 9 as follows:*

9. MONTHLY FINANCIAL AND INVESTMENT REPORTS - RDA

Action(s): *Accepted and Filed the Report.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Council/Agency Member Lee requested that item 10 be removed from the Consent Calendar.

Action: *On a motion by Mayor Pro Tempore/Vice-chairman Sellers and seconded by Council/Agency Member Lee, the City Council/Agency Board unanimously (5-0) Approved Consent Calendar Item 11 as follows:*

11. APPROVE RESOLUTION OF LOCAL SUPPORT FOR TIER II OF THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FOR 2009 CHURCH STREET RESURFACING PROJECT AND APPROPRIATE FUNDING

Action(s): 1) **Approved** Resolution No. 6255, Authorizing Staff to File an Application for Federal ARRA 2009 Funding for the Church Street (Dunne to San Pedro) Resurfacing Project; and 2) **Appropriated** \$106,000 from Current Year Fund 315 (RDA) Unappropriated Fund Balance to Fund Construction of the Church Avenue Resurfacing Project, Subject to Reimbursement for ARRA Funds.

10. SMART POOL PUMP PURCHASE AND INSTALLATION AGREEMENT

Council/Agency Member Lee said that based on what was approved by the Council/Agency Board and what staff is finding when it received proposals; the City would be saving approximately \$18,000 less than what was projected based on the numbers that were approved/submitted. She inquired whether there is still a belief that moving forward with a smart pool pump will be worthwhile based on the numbers.

City Manager/Executive Director Tewes stated that staff recommends the Council/Agency Board make this investment as there would be \$13,000 in operational savings annually. He said that when the Council/Agency Board considered this proposal as part of the mid year budget review, staff felt that the investment would be less and that the payback would be greater. However, staff still believes that \$13,000 in annual savings is worth the \$58,290 investment (includes a \$5,000 contingency).

Action(s): On a motion by Council/Agency Member Lee and seconded by Mayor Pro Tempore/Vice-Chairman Sellers, the City Council/Agency Board unanimously (5-0): 1) **Approved** Purchase and Installation of Smart Pool Pump Control Systems from Pool Time for the Centennial Recreation Center and Aquatics Center; 2) **Authorized** the City Manager to Execute the Agreement on Behalf of the City; and 3) **Appropriated** \$58,290 from the Redevelopment Agency Unappropriated Fund Balance (Fund 317) for this project.

(**Note:** The City Council considered the Special Meeting Agenda at this time. The Council/Agency Board continued with the remainder of the agenda as listed below.)

City Council Action

OTHER BUSINESS:

12. ENVIRONMENTAL ASSESSMENT APPLICATION, EA-09-09: EAST THIRD – CITY OF MORGAN HILL

Community Development Director Molloy Previsich informed the Council that the City of Morgan Hill is the applicant pursuing a mitigated Negative Declaration for a proposal to expand an existing parking lot to be accessed from Third Street. She stated that the Negative Declaration addresses a project that would consist of expanding the existing parking lot onto an adjacent residential property. The project would entail acquisition of the residential lot, and that following acquisition, the City would process the

necessary conditional use permit and design permit applications for the construction of the parking lot expansion. She informed the Council that the environmental review found that all potentially significant environmental impacts can be mitigated to a less than significant level through: construction dust control, surveying for active bird nests prior to construction, and taking a hard look at two significant oak trees located on the site as part of the design review for the project.

Mayor Tate opened the floor to public comments. No comments were offered.

Action(s): *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration and Mitigation Monitoring & Reporting Program.*

13. CONDUCT HEARING AND CONSIDER ADOPTION OF RESOLUTION OF NECESSITY FOR PROPERTY ACQUISITION FOR A MUNICIPAL PARKING LOT

City Attorney Wan informed the Council that this item relates to conducting a hearing to consider the adoption of a resolution of necessity for eminent domain action. He stated that staff would be asking the Council to make findings as part of the resolution. As the affected property owner has requested this item be continued as his attorney is not able to represent him this evening, he recommended the Council open the floor to public comment and that it continue this item to the next regularly scheduled meeting.

Mayor Tate opened the floor to public comment.

Frank Manocchio stated that he was not opposed to the City acquiring this piece of property for parking. He acknowledged that a fair market price would be acceptable to a willing seller/buyer in a free and open market when neither is acting under compulsion. He noted that in the past couple of years, the Redevelopment Agency has acquired properties in the downtown and paid above market value for some of the lots. He inquired why eminent domain was not invoked in those instances while being invoked in this instance. He clarified that he did not have any vested interests in terms of what the owners would be paid for their property. However, it bothers him that the City would contemplate using eminent domain. He said that the owners were fortunate to purchase a piece of property that turns out to be more valuable than it is as a home, and felt that they should be able to reap from the benefits. He said that in an April 29, 2008 article in the Morgan Hill Times; Mayor Tate, Mayor Pro Tempore Sellers and Director of Business Assistance & Housing Services Toy were quoted at length about justifying the purchases above the market prices for properties in the downtown. He wanted to know why one property owner is threatened with eminent domain while others are not.

No further comments were offered.

Mayor Pro Tempore Sellers noted that Mr. Manocchio raised several issues and felt that it would be important to address them. He inquired whether it would be appropriate to address the concerns at the meeting where the Council holds the hearing as opposed to having the discussion this evening.

City Attorney Wan stated that the City is in the middle of the hearing, and suggested the Council continue the hearing. The Council can receive public comments at the next meeting and hear any further questions the public may have. Following the closure of the hearing, it would be appropriate for him or

staff to answer any questions that would aid the Council in making the four required findings before deciding whether or not to adopt the resolution of necessity.

Mayor Pro Tempore Sellers wanted to make it clear that the City is not attempting to deflect Mr. Manocchio's questions as they are valid questions that need to be addressed. He acknowledged that the appropriate time to address the questions would be at the next hearing.

Action(s): *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Continued** this item to July 1, 2009.*

City Council Action

PUBLIC HEARINGS:

14. FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT ADOPTION OF RESOLUTION CONFIRMING FISCAL YEAR 2009-10 ANNUAL ASSESSMENT – Resolution No. 6256

Deputy Director of Public Works Struve indicated that at the June 3 meeting, the Council declared its intent to levy assessment and that a notice of public hearing was published in the newspaper according to state law. He informed the Council that a change has occurred in one sub area – the Chang/Bertalone sub area. Staff recommends this assessment be increased from \$94.92 per year per parcel to \$200 per year per parcel. He stated that this sub area had no improvements for the first several years following annexation into the district. Improvements were installed in 2005-06 and that it is now necessary to raise the assessment in order to meet the cost for maintenance. He indicated that there is a positive fund balance in this particular sub area; explaining that the increase being recommended does not meet the cost for maintenance. However, in using the fund balance, and raising the rates this year and next year, it will result in softening the increase to the residents while still keeping the assessment healthy, financially. He stated that the Council approved staff's recommended strategy in four of the sub areas that were financially distressed. The strategy would reduce maintenance services to a minimum and uses the available remaining revenues to decrease a fund deficit in each of the sub areas. He indicated that the assessment had been raised to the maximum in each of the sub areas and could not be raised further without a Proposition 218 ballot proceeding. Based on Council direction, it resulted in reducing the negative fund balances in four areas. He stated that the Conte Garden sub area will have a positive fund balance of approximately \$1,900 by the end of Fiscal Year 2009-10, and that he would return in two years to recommend some improvements with a landscape scheme that would be affordable to maintain.

Deputy Director of Public Works Struve informed the Council that staff proposes to change the name of the Fox Hollow-Murphy Springs Landscape Assessment District to the City of Morgan Hill Landscape Assessment District No. 1 next year. Staff estimates that a further increase in the overall district fund balance in the Fiscal Year 2009-10 will increase the fund balance by an additional \$21,000 for a total fund balance of approximately \$72,000.

Mayor Pro Tempore Sellers indicated that he spoke with a resident who had expressed an interest in assisting with one of the sub areas. The resident understands that minimal activity/maintenance can be

done and had an idea of doing something more extensive that would involve bringing the community together to volunteer and maintain the sub area. He inquired whether there was anything that would preclude residents from doing something.

Deputy Director of Public Works Struve said that in the case of the La Grande sub area, a party not a part of this sub area came forward to donate his time and services to maintain the area. He informed the Council that the La Grande sub area scheme has been reduced by the fact that the City has minimized services. The manicured looking turf and shrub area is more of a wild area, but that it has been trimmed. Staff spoke with the City's advisory consultant, MBS, to inquire as to the legality of having a volunteer resident(s) maintain the landscape area. MBS found that a volunteer maintaining the landscape area would be acceptable. The individual has requested permission to install improvements. However, staff explained the direction the City is heading toward. He stated that the individual is amenable to volunteering to maintain the area, and that it was his belief this district would be happy to have someone help maintain the area. In community meetings with this district in the past, staff explained the problem and that staff received mixed levels of participation. He indicated that he would be willing to contact the individual and work with him, if possible.

Mayor Pro Tempore Sellers clarified that the resident is interesting in establishing a community garden, a different approach. He said that it sounds as though there have been cases where someone has stepped forward to volunteer to maintain landscape areas and that the precedent has been set.

Mayor Tate opened the public hearing. No comments being offered, the public hearing was closed.

Mayor Tate thanked staff for the positive report and felt that the landscape assessment districts are heading in the right direction.

Mayor Pro Tempore Sellers indicated that the last time this item came before the Council, it was a mess due to the significant challenges the City was facing in each of the sub areas. He applauded staff for having addressed the problems and in ending up with a positive fund balance. He looks forward to hearing more positive news in subsequent years.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Adopted** Resolution No. 6256, Confirming the Fiscal Year 2009-10 Annual Assessments and Ordering the Levy for Assessments for the Fox Hollow Murphy Springs Landscape Assessment District*

15. AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CERTAIN SECTIONS OF CHAPTER 3.56 (DEVELOPMENT IMPACT MITIGATION FEES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO DELETE GEOGRAPHIC LIMITATIONS FOR USE OF IMPACT FEES FOR THEIR LAWFUL USE – Ordinance No. 1945, New Series

City Attorney Wan stated that the City's Municipal Code authorizes the assessment of impact fees on development for the purpose of having the developments pay their proportional costs for public facilities. He said that the public facilities can be made within the city limits or outside the city limits as long as the Council fulfills the requirement of establishing the nexus/relationship between the

development and the public facilities to be built. He informed the Council that the Municipal Code contains the words “within the city limits” for the public facilities to be built. Staff does not believe this is a necessary legal condition for the use of impact fees. Therefore, staff recommends the deletion of the requirement limitation from the Municipal Code.

Council Member Lee inquired if there was something staff was looking at outside the city limits that led to staff’s recommendation.

City Manager Tewes informed the Council that the last time the development impact fees were adopted was in 2002. He said that it is generally a good practice to review these fees every five years; noting that the City is behind in its review. However, the Council has authorized staff to contract with consultants to help staff evaluate the next round of development impact fees. He indicated that the fees are calculated on the estimated growth within the urban service area, an area beyond the city limits. As growth occurs, staff wants to make sure that developments are paying their fair share of the system-wide improvements such as sewer, water, and streets that often wind in/out of the city limits, but are still necessary to meet the growth demand of the urban service area.

Mayor Tate opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the first and second reading of Ordinance No. 1945, New Series.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council **Introduced** Ordinance No. 1945, New Series, as follows: **AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CERTAIN SECTIONS OF CHAPTER 3.56 (Development Impact Mitigation Fees) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO DELETE GEOGRAPHIC LIMITATIONS FOR USE OF IMPACT FEES FOR THEIR LAWFUL PURPOSES** by the following roll call vote: AYES: Carr, Lee, Librers, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

City Council Action

OTHER BUSINESS:

16. RESOLUTION OPPOSING GOVERNOR AND LEGISLATURE’S PROPOSAL TO TAKE CITY GAS TAX AND REDEVELOPMENT TAX INCREMENT TO HELP BALANCE STATE BUDGET – Resolution No. 6257

Finance Director Riper stated that the State budget, currently on the table, would take away 100% of all cities’ gas tax in fiscal year 2009-10 and 75% in the following fiscal year. This would equate to a loss to the City of \$1.1 million over the next two years. He informed the Council that there is fear, on the part of the League of California Cities and many other cities, that once the State gets its hands on the gas tax, it would take it in subsequent years as well. Over the five year forecast period the City looks at its

General Fund budget, this would equate to a loss of approximately \$2.5 million. He said that the League of California Cities is trying to discourage the permanent take away. The second part of the State's proposed budget would impact the Redevelopment Agency. He indicated that last year, the state tried to take away \$350 million from all the redevelopment agencies throughout the State and that Morgan Hill's share would have been \$2.1 million. He stated that the California Redevelopment Association and other affected cities fought this action in court and won a decision on April 30 where it was stated that it was unconstitutional for the State to take redevelopment agency monies to balance its budget. However, the State has its own attorneys who have returned with a different legal theory to get at the redevelopment agency monies in the same amount, state-wide, and the same amount from Morgan Hill next year and in the subsequent two years. This would result in a hit to Morgan Hill's Redevelopment Agency of approximately \$6.5 million. He informed the Council that the California Redevelopment Association and the League of California Cities are vigorously opposing this action due to the budgetary implications on redevelopment agencies. He recommended the Council adopt a resolution authorizing the City Attorney to engage in legal actions with both of these organizations to participate in court and that the City Manager take part in the political efforts to fight this State effort.

Council Member Lee inquired whether the gas tax falls under Proposition 1A where the State has to declare a fiscal emergency, or whether the State just can take away the gas tax.

Finance Director Riper responded that Proposition 1A permits the State to borrow the gas tax if it declares a fiscal emergency and agrees to pay it back within three years, plus interest. However, the proposal by the State is not to borrow the gas tax, but to take it under a new legal interpretation that the State attorneys have come up with. He indicated that the State has not declared a State emergency to date.

City Manager Tewes said that the State's legal theory is that the voters of the State of California imposed restrictions on the gas tax such that it can only be used for transportation purpose. The State is stating that it will take local transportation monies and spend it on state-wide transportation issues. He indicated that the League of California Cities believes, and has a legal opinion, that even this action would be unconstitutional. It is this authority that staff is suggesting the City Attorney participate in any legal actions that may arise, should the proposal move forward.

Council Member Librers inquired what makes the case different this year from the court ruling that would allow the State to take away redevelopment funds.

City Attorney Wan indicated that this would involve litigation discussions on the arguments that may be used. He recommended that an item be scheduled for closed session at the next meeting to discuss this matter further.

Mayor Tate felt that it may be useful to identify examples of how the City uses the gas tax monies received from the State, and what projects would not proceed should the City lose the gas tax monies.

City Manager Tewes indicated that staff has presented the Council with a series of budget challenges over the past couple of years. Staff has consistently stated that street operations and maintenance are at an unsustainable level. The amount of gas tax the City receives is not enough to keep the street lights on, storm drains clean, and the traffic signals operating; even if it receives the same amount of gas tax.

Unlike many communities who use their gas tax to fund capital projects, the City of Morgan Hill uses its gas tax for operations. Should the City lose its gas tax revenues, the City would be looking at options such as turning off street lights and reducing street operations/maintenance activities.

Mayor Tate opened the floor to public comment. No comments were offered.

Mayor Pro Tempore Sellers indicated that the City was strongly encouraged by the League of California Cities to take advantage of any free time the Council may have to contact our legislators to let them know our concerns/opposition to take aways. He said that the Council has the opportunity to see our legislators at the Fourth of July events, if not before. He suggested that Council members let them know that we understand the severity of their crises, but that they cannot solve the State crises off of the backs of cities because cities are already dealing with significant issues of their own. He encouraged the public to do the same.

Mayor Tate indicated that he contacted Assembly Member Monning twice and that he would follow up with a third contact.

Action(s): *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Adopted** Resolution No. 6257; Opposing the Proposal by the Governor and State Legislature to Divert Local Funds to Help Balance the State Budget.*

17. CARBON DIET CLUB FOR CITY COUNCIL

Mayor Tate indicated that he requested this item be placed on the agenda so that the Council can discuss whether it wants to model the way for its citizens in terms of joining a Carbon Diet Club.

Program Manager Eulo informed the Council that it is the City's goal to have 500 households participate in a Carbon Diet Club in Fiscal Year 2009-10, and that there are currently 56 households participating in the Carbon Diet Club; pledging to reduce approximately 324,000 of carbon dioxide on an annual basis. He indicated that the Planning Commission has held a series of Carbon Diet Club meetings and that they have jointly committed to reduce 65,300 pounds of carbon dioxide. He addressed staff's outreach efforts; including this evening's outreach to the Council. He addressed how the Carbon Diet Club is coordinated, processes and outcomes. He identified some options for the Council: 1) a meeting of the Council (e.g., a workshop before a council meeting, other mutually agreed upon date/time, or join an open community group as individual members). He said that it is a goal to reduce a household's carbon footprint by 5,000 pounds. He said that Carbon Diet Club meetings can be brief; depending on how much information individuals are willing to share.

Mayor Pro Tempore Sellers said that he was anxious about using \$150 to install energy upgrades as council members as the perception might be that they are taking advantage of a program for their own personal benefit.

Program Manager Eulo indicated that the City provides up to \$150 in rebate monies to individuals when they make hardware improvements to their homes.

City Attorney Wan said that if grant monies were approved by the Council, generally, this would constitute a conflict of interest as the Council cannot receive money under a program it approved.

Mayor Tate opened the floor to public comment. No comments were offered.

Mayor Pro Tempore Sellers suggested coordinating a Carbon Diet Club as part of the Council meetings with the caveat that the Council is not violating perceived or legal issues. Further, it would be important that Council members do not pressure each other as everyone has their own budgetary situations. He supported a collective Council participation in a Carbon Diet Club.

Council Member Carr indicated his willingness to participate in a Council Carbon Diet Club.

Council Member Librers stated that she would also be willing to participate in a Council Carbon Diet Club, but that she wanted to make sure that it was a commitment that she could keep as she did not want to fail in her commitment.

Program Manager Eulo stated that he was confident that each council member would be able to reduce its carbon footprint by 5,000 pounds.

Mayor Tate suggested minimizing the duration of the Carbon Diet Club meetings; scheduling the meetings prior to Council meetings.

Program Manager Eulo suggested scheduling a Council Carbon Diet Club meeting at 6:30 p.m., prior to a Council meeting.

Council Member Librers suggested meeting at 6:15 p.m. to incorporate a recess prior to the regularly scheduled 7 p.m. meeting.

Action(s): *By consensus, the Council **Directed** Staff to Schedule Council Carbon Diet Club meetings at 6:15 p.m., prior to regular Council meetings in July.*

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

No items were identified.

City Council Action

CLOSED SESSIONS:

City Attorney Wan announced the below listed closed session items:

1.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: Utility easement through county owned property located west of Monterey Road, along Llagas Creek
Negotiating Parties:
City: City Manager; City Attorney; Director of Public Works
Property Owner: Santa Clara County
Under Negotiation: Price and Terms of Payment

2.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: APN 726-14-007; 35 East Third Street
Negotiating Parties:
City: City Manager; City Attorney; Assistant to City Manager
Property Owner: Dwight & Lola Jungkeit
Under Negotiation: Price and Terms of Payment

Redevelopment Agency Action

CLOSED SESSIONS:

Agency Counsel Wan announced the below listed closed session items:

3.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: APN 726-14-001; 95 East Third Street
Negotiating Parties:
Agency: Executive Director, Agency Counsel, Assistant to City Manager
Property Owner: Llagas Valley Investments LLC
Under Negotiation: Price and Terms of Payment

4.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: APN 726-13-041; 30 East Third Street
Negotiating Parties:
Agency: Executive Director, Agency Counsel, Assistant to City Manager
Property Owner: Villafranca
Under Negotiation: Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Tate opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Tate adjourned the meeting to Closed Session at 7:58 p.m.

RECONVENE

Mayor/Chairman Tate reconvened the meeting at 9:02 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Tate announced that no reportable action was taken in Closed Session.

ADJOURNMENT

There being no further business, Mayor/Chairman Tate adjourned the meeting at 9:03 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY